

**IN THE UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF GEORGIA
AUGUSTA DIVISION**

IN RE:)	
NAYNA PATEL AND)	
VINOD PATEL,)	Chapter 13 Proceeding
)	Case No.: 16-11274-SDB
Debtors.)	

**MOTION FOR PRELIMINARY APPROVAL OF U.S. SMALL BUSINESS
ADMINISTRATION OFFER-IN-COMPROMISE**

NOW COME, NAYNA PATEL and VINOD PATEL, debtors in the above referenced matter ("Debtors"), and file this Motion for Preliminary Approval of an SBA Offer-in-Compromise, and state as follows.

1. On or about October 13, 2006, Dhara & Vikas, LLC d/b/a Country Hearth Inn ("DV") entered into US Small Business Administration ("SBA") Loan Agreement # GP 23756160-10 CHAR with Business Loan Center, LLC (the "SBA Loan") which funded the startup of a Hotel in Charlotte, NC (the "Hotel"). See Claim No. _4.

2. Debtor, Nayna Patel, was the managing member of DV, and the SBA and/or Business Loan Center, LLC ("BLC") required that both Nayna Patel and Vinod Patel sign personal guarantees on the SBA Loan. See Claim No. 4.

3. Upon information and belief, on December 3, 2012, BLC assigned the SBA Loan to BLC Funding, LLC ("BLC Funding"). See Claim No. 4.

4. Upon information and belief, subsequently on December 3, 2012, BLC Funding assigned the SBA Loan to U.S. NATIONAL BANK ASSOCIATION, as successor trustee to Bank of America, N.A., successor by merger to LaSalle Bank National Association, as Indenture Trustee under certain Second Amended and Restated Indenture dated as of February 4, 2005, as the same may be amended from time to time, for the benefit of the SBA and holders of the BLX

Funding Trust I Notes, as their interests may appear subject to a Second Amended and Restated Multi- Party Agreement dated February 4, 2005 (“U.S. National Bank”). See Claim No. 4.

5. Due to a poor economy, crime surrounding the area where the Hotel was located and poor management by non-parties to this matter, the SBA Loan went into default.

6. Debtors attempted to work with U.S. National Bank on the defaulted SBA Loan and ultimately entered into a short sale agreement of the real property where the Hotel was located, and after the liquidation of the real estate collateral, there remained a large deficiency balance left owing on the SBA Loan (the “Deficiency Balance”).

7. Upon information and belief, U.S. National Bank sued Debtors for the Deficiency Balance in a state court in North Carolina and received a judgment (the “NC Judgment”).

8. U.S. National Bank then domesticated the NC Judgment in Columbia County, GA Superior Court (Civil Action No. 2016-CV-0130) and the Judgment was signed by the Court on April 13, 2016 (the “Judgment”). See Claim No. 4.

9. On or about June 6, 2016, U.S. Bank National assigned the Judgment to BLC.

10. On June 20, 2016, a Writ of Fieri Facias in favor of U.S. National Bank/BLC (collectively hereinafter “Creditor”) was recorded at Book 10400 and page 148 in the Superior Court of Columbia County (the “Judgment Lien”).

11. On or about July 26, 2016, Debtors received a letter concerning the “SBA Offer-in-Compromise Process” from Creditor.

12. On September 15, 2016, Debtors filed for Chapter 13 bankruptcy protection.

13. On September 20, 2016, Debtors filed Adversary Proceeding #16-01032-SDB in this Court seeking to avoid Creditor’s Judgment Lien pursuant to 11 U.S.C. § 547 (the “Adversary Proceeding”).

14. On October 14, 2016, Debtors submitted an Offer-In-Compromise to the SBA (the “Proposed Offer-in-Compromise”) offering the following in exchange for a full release from the Creditor:

- a. Debtors would pay Creditor \$30,000 in cash; and
- b. Debtors would sell their 2007 Lexus EX 350 and 2007 Toyota Tundra and remit all of the net proceeds to the SBA or, alternatively, should the SBA and/or Creditor prefer, Debtors would transfer title to the 2007 Lexus Ex 350 and 2007 Toyota Tundra to the Creditor.

15. Debtors have received word that the SBA will not approve the Proposed Offer-in-Compromise to Creditor until it was first approved by the Bankruptcy Court and, therefore, the SBA requires “preliminary” approval of the Offer-in-Compromise.

16. Debtors are therefore seeking preliminary approval of the Offer-in-Compromise from this Court, and then would send this Court’s Order preliminarily approving the Offer-in-Compromise to the SBA pursuant to the SBA’s request as a prerequisite before it will consider the Offer-in-Compromise.

17. If the SBA approves of the Proposed Offer-in-Compromise after this Court’s preliminary approval of same, Debtors will then move for final approval of the Offer-in-Compromise.

18. Debtors further would show that aside from the Creditor’s claim the status of which remains at issue in the Adversary Proceeding, the balance of the unsecured claims total only \$761.85 (the “Other Unsecured Claims”) and the non-governmental bar date has passed¹.

¹ The governmental bar date is March 14, 2017, and Debtors do not anticipate any claims being filed by a governmental bureau.

See Claim 3 in the amount of \$351.90, Claim 5 in the amount of \$259.54 and Claim 6 in the amount of \$150.41 for a total of \$761.85.

19. Debtors have paid a total of approximately \$1,046.17 into their Chapter 13 case thus far and continue to pay \$200.00/month. This should allow Debtors to pay the Other Unsecured Claims in full and, therefore, Debtors will be able to pay a 100% dividend to unsecured creditors.

20. Debtors believe that the Proposed Offer-in-Compromise is fair and reasonable, and based on what has been represented to the Debtors by a representative of the SBA, Debtors feel that the SBA is likely to agree to the Proposed Offer-in-Compromise once the Court provides an order granting preliminary approval.

21. Debtors further believe the Proposed Offer-in-Compromise is in the best interest of the Debtors and of the Debtors' estate.

WHEREFORE, the undersigned respectfully prays as follows:

- (a) That this Court issue an order preliminary approving the Proposed Offer-in-Compromise; and
- (b) That such other and further relief as the Court deems necessary and proper.

This 8th day of March, 2017.

/S/ Charles W. Wills
Charles W. Wills
Attorney for Debtor
Georgia Bar No.: 254329

KLOSINSKI OVERSTREET, LLP
1229 Augusta West Parkway
Augusta, GA 30909
706-863-2255

CERTIFICATE OF SERVICE

This is to certify that I have this day served a copy of the within and foregoing
“MOTION FOR PRELIMINARY APPROVAL OF U.S. SMALL BUSINESS
ADMINISTRATION OFFER-IN-COMPROMISE” upon all parties listed below either
electronically or by placing a copy of the same in the United States Mail, postage prepaid and
properly addressed as follows:

**Huon Le
Chapter 13 Trustee
[VIA ECF]**

**Nathan Huff
Attorney for Business Loan Center, LLC
[VIA ECF]**

SEE MAILING MATRIX ATTACHED AS EXHIBIT “A”

This 8th day of March, 2017.

/s/ Charles W. Wills
Charles W. Wills

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Label Matrix for local noticing
113J-1
Case 16-11274-SDB
Southern District of Georgia
Augusta
Wed Mar 8 08:18:07 EST 2017

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U.S. Bank National Association, et al
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University Health Care System
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Augusta GA 30901-1008

Charles W. Wills
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The preferred mailing address (p) above has been substituted for the following entity/entities as so specified by said entity/entities in a Notice of Address filed pursuant to 11 U.S.C. 342(f) and Fed.R.Bank.P. 2002 (g)(4).

Bank of America
PO Box 982235
El Paso TX 79998-2235

DISCOVER FINANCIAL SERVICES
PO BOX 15316
Wilmington DE 19850

The following recipients may be/have been bypassed for notice due to an undeliverable (u) or duplicate (d) address.

(d)Alma Exchange Bank and Trust
P.O. Box 1988
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(u)Business Loan Center, LLC as successor in

End of Label Matrix	
Mailable recipients	30
Bypassed recipients	2
Total	32